IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.635 OF 2006
IN
EXECUTION APPLICATION NO.20 OF 1998
IN
SUIT NO.3033 OF 1994

Ramzanali Gulam Hussain Ramodiya and ors.
..Applicants.
(J.D)
Vs.
Hamida Karim Ramodiya and ors.
..Org. Plffs.
(D.H.)
And
Hussain H. Ramodiya and ors.
..Respondents.

Ms. S.Satarupa Banerjee for the Applicants.

Mr. Anil Singh i/by D.R.Shan for the Respondent Nos. 1 to 3.

Mr. Kishore Jain i/by Tushar Garodia and Bhavik Manek for the plaintiff Nos. 1,2, 2.2.

CORAM : R.S. MOHITE,J.
DATED : 28/8/2006.

P.C.

1. Heard both sides.

2. This chamber summons is taken out by the original defendants who are Judgment debtors for appointment of Court Commissioner to visit and inspect the various properties as mentioned in Paragraph-a of the chamber summons and to submit report to the court mentioning the names of the persons possessing the said properties and which are alleged to be alienated by the original

plaintiffs without the intervention of the Sheriff of Bombay. In the course of hearing of the chamber summons, the Advocate for the defendants made a grievance that one of the said properties i.e. Manjrekar Chemical Works appeared to have been encumbered by the original plaintiffs. This fact is denied by the plaintiffs and on their behalf it is submitted that it is the defendants who themselves have encumbered the said property. The Advocate appearing for the original plaintiffs state that the said property was not included in the proposed sale because value thereof would not be sufficient to satisfy the decree. This by itself cannot be a ground for excluding any property. The Advocate for the defendants have no objection if this property i.e. Manjrekar Chemical Works is also put up for sale. It is therefore, directed that the property i.e. Manjrekar Chemical Works will also be put up for sale by the Sheriff in addition to all other properties presently proposed to be sold. As there is a dispute as to whether and to what extent Manjrekar Chemical Works is encumbered, it would be desirable that Manjrekar Chemical Works be put to sale on as is where is basis. If any amount remains to be collected for marking the decree fully satisfied, then the other properties of the original defendants can also be sold by the Sheriff thereafter.

3. It is made clear that as regards the alleged illegal occupants in property known as "Manjrekar Chemical Works" which is admittedly under attachment and in respect of which this court has earlier passed an order indicating that any alienation conducted otherwise through the office of the Sheriff, would be void, the parties will be at liberty to take any such proceeding as they desire. The Advocate for the respondents states that the respondent will abide by the statement which they have made earlier to the effect that they have not participated in the sale of the attached properties in any manner whatsoever. It is clarified that there is no injunction against the said sale as sought and that the sale should proceed according to law. It is also made clear that if there is any impediment in the sale of Manjrekar Chemical Works at the behest of anybody who claims through the defendants then Sheriff will be at liberty to sell the other properties to obtain satisfaction of the decree . With these directions, the chamber summons is disposed off.

. Certified copy expedited.

(R. S. MOHITE, J.)